

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

NEIL GIFFORD LONG,

Plaintiff,

v.

**CIVIL ACTION NO. 2:14-CV-10
(BAILEY)**

**DR. DIONISIO ENRIQUE POLICARPIO,
MD, and RALPH E. PRICE, HSA MEDICAL
ADMINISTRATOR,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. 33]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R&R on March 24, 2015, wherein he recommends the plaintiff's Complaint be dismissed with prejudice as to defendant Dr. Policarpio and be dismissed without prejudice as to defendant Ralph E. Smith.

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

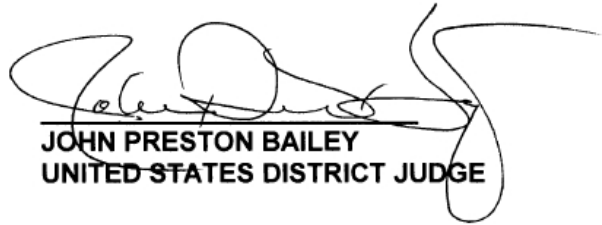
150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaul's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on March 28, 2015 [Doc. 18]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 33]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, Defendant Dr. Dionisio Enriquez Policarpio's Motion to Dismiss **[Doc. 24]** is **GRANTED**. Accordingly, this Court **ORDERS** that the plaintiff's § 1983 claims **[Doc. 1]** be **DENIED** and **DISMISSED WITH PREJUDICE** as to defendant Dr. Policarpio for failure to state a claim upon which relief can be granted and **DISMISSED WITHOUT PREJUDICE** as to Ralph Price for failure to effect service. This matter is **ORDERED STRICKEN** from the active docket of this Court. The Clerk is further **DIRECTED** to enter separate judgment in favor of the defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: April 16, 2015.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE